

TTAB

August 23, 2015

Ref No.: Souki 150802

Mr. Benjamin U. Okeke
Interlocutory Attorney
Trademark Trial and Appeal Board
United States Patent and Trademark Office

Dear Sir,

Cancellation Case: 92060328 - 79070322

I would like to present the following document for my Motions for 92060328.
If you could kindly administer accordingly, I am highly happy.

Petitionary Motion for Highly Respectful TTAB to Ignore
Motion for Default Judgment and Motion to Strike
Filed by Plaintiff

Petitionary Motion for Highly Respectful TTAB to give order to Plaintiff to Respect
Schedule Set by Highly Respectful TTAB

Attached: 1) The above document: 38 pages
2) Certificate of Service 1 page

Very truly sincerely yours,

N. Minaki

Defendant
Souki Manufacturing Inc.
Nobuhiko Minaki
Representative Director
Trademark Creator, Owner, User
326-6 Sakamoto-cho, Hodogaya-ku, Yokohama-shi
Kanagawa, 240-0043, Japan
Tel 81-45-333-4525 81-45-332-7890 direct



08-27-2015

U.S. Patent & TMO/TM Mail Rpt Dt: #22

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Plaintiff Trademark: LOVE IS FOREVER
Serial Number: 86285762
Filing Date: May 19, 2014
Refusal Issue/Mailing Date: August 27, 2014

Defendant Trademark: LOVE IS FOREVER®
Registration No.: 3811074
Filing Date: May 13, 2009
Registration Date: June 29, 2010

Plaintiff	L.A.Gem and Jewelry Design, Inc.
Assigned Attorney	MR. MILORD A. KESHISHIAN
	Cancellation No.: 92060328
Defendant	Souki Manufacturing Inc.
No Assigned Attorney	Nobuhiko Minaki (Mr.)
	Representative Director
	Trademark Creator, Owner, User

August 23, 2015

Ref No.: Souki 150801

**PETITIONARY MOTION FOR HIGHLY RESPECTFUL TTAB TO IGNORE
MOTION FOR DEFAULT JUDGMENT AND MOTION TO STRIKE
FILED BY PLAINTIFF**

**PETITIONARY MOTION FOR HIGHLY RESPECTFUL TTAB TO GIVE
ORDER FOR PLAINTIFF TO RESPECT SCHEDULE SET BY
HIGHLY RESPECTFUL TTAB**

Defendant will sincerely/respectfully move (1) Petitionary Motion for Highly Respectful TTAB to ignore the Motion for Default Judgment asserted 07/31/2015 by plaintiff (2) Petitionary Motion for Highly Respectful TTAB to ignore the Motion to Strike asserted 03/05/2015 by plaintiff, and (3) Defendant will sincerely/respectfully move Petitionary Motion for Highly Respectful TTAB to give

order to plaintiff to respect Schedule set/mailed June 12, 2015 by Highly Respectful Trademark Trial and Appeal Board.

Because defendant/I have been continuously in the wretched/miserable situation and especially my business has been so delayed and delayed with no sales, no income etc being attacked by plaintiff unreasonably, which in order to place under the highly respectful judgment, if the prosecution proceeding is proceeded under and according to the schedule set/mailed June 12, 2015 by Trademark Trial and Appeal Board, it will be highly happy.

I do hope the manner/style etc of this document could be satisfactory to the highly respectful order of the Interlocutory Attorney, Mr. Benjamin U. Okeke, mailed/ordered/guided June 12, 2015 for defendant to amend ANSWER. The order was done in response to the Motion to Strike by plaintiff filed 03/05/2015, I think.

In this document, in the first part of the report/petition/motions, that is, in the part of **I** and **II** etc in the following, I would like to report for fundamental things etc which could promote high understanding regarding defendant's responses in the part of **III**, **last part of this document.**

In the part of **III**, I would like to report/explain my responses such as **DENY** etc with reasons etc to/for assertions of Plaintiff.

Confirmation:

1) I have been highly respectful/thankful for the US Attorney who visited me at the sightseeing place of vicinity of Yokohama, Japan where I had been doing intercept survey for my products of LOVE IS FOREVER® , and he had advised me to attach ® mark for my products as LOVE IS FOREVER®, which was of 2010 or so.

And I have been respecting/thankful for the attorney of Michigan who e-mailed to me regarding the filing of 92058656 02/13/2014, and I have been respecting/thankful for many other highly respectful/thankful attorneys, experts etc who have been continuing to give highly respectful/thankful advice

But now defendant has been heavily disturbed/obstructed in business/privacy by 92060328 filed by plaintiff on 11/05/2014.

2) Issues/Merits of this case and Groundlessness of Plaintiff:

I think the issues/merits of this case are (1) to (11) etc as follows, and according to the issues/merits in the following, groundlessness of plaintiff seems to be revealed accordingly.

I think, also, groundlessness of plaintiff has been revealed in ANSWER/RESPONSE of defendant mailed/presented 02/13/2015 at the post office in Yokohama, Japan for TTAB and in AMENDED ANSWER mailed/presented 07/11/2015 at the post office in Yokohama, Japan for TTAB.

(1) Too Fascinating Power of LOVE IS FOREVER®:

LOVE IS FOREVER® has fascination but sometimes makes people out of control in morality etc. So, sometimes it makes people lose power of justice, proper/sane judgment in mind and be mad and/or insane in front of **LOVE IS FOREVER®**.

For people who run accessory items business such as engage rings, earrings, bracelets, necklaces, or the like etc, it seems that the brand

LOVE IS FOREVER® is too fascinating, I feel. And in rare case, some people who run such business might lose the power to control to be mad and insane in front of the brand of **LOVE IS FOREVER®**, hypothetically I feel.

And this case might be a case being invited by the power of the fascination to make people mad and/or insane, hypothetically I feel. And the following are for the explanations.

(2) Neglecting Ownership of Other People/Person:

The petition to cancel **LOVE IS FOREVER®**, 92060328, the Motion to Strike, the Motion for Default Judgment etc might be the examples for plaintiff to neglect ownership of defendant due to the fascinating power of **LOVE IS FOREVER®**, or it might be the result strongly influenced by it, hypothetically I feel.

(3) Abusing Law:

This cancellation case, 92060328, might be the example of abusing the laws by plaintiff due to the fascinating power of the trademark, **LOVE IS FOREVER®**, hypothetically I feel.

(4) Lying to Cheat Authority/TTAB:

This cancellation case, 92060328, might be the example of stating not true things, lying, trying to cheat etc the Authority, TTAB, such as stating that the trademark has been abandoned

or so due to the fascinating power of **LOVE IS FOREVER®**, I feel hypothetically.

(5) Attempt to Obtain Ownership of **LOVE IS FOREVER®**:

Petition for cancellation, 92060328, might be the example for plaintiff has been trying to obtain the ownership of the trademark, **LOVE IS FOREVER®**, strongly influenced by the fascinating power of **LOVE IS FOREVER®**, I feel hypothetically.

(6) Obstruction of Business:

And petition for cancellation, 92060328, is the Obstruction of Business/Privacy etc of defendant, that is, plaintiff has been attacking continuously in order to obtain the ownership using various methods such as petition for cancellation etc and the victim/defendant is forced to use time to cope with, which might be due to the fascinating power of **LOVE IS FOREVER®**, I feel hypothetically.

(7) No Production, No Sales, No Income to pay to ask Counsel's help, a so Miserable Situation due to the Obstruction of Business etc:

Due to the Obstruction of Business/Privacy by plaintiff, no production in China, no sales, no income etc etc.

But when/if the unwelcome, Obstructions of Business/Privacy, are ceased, I am happy to start again the production of my products in China, and shipping from Shanghai to Yokohama, Japan, there doing some processing as inspection by my eyes, packaging, and re-starting to prepare Internet shop, delivery system for/of customers-to-be step by step like a tortoise.

I have to become ready enough for GOOD QUALITY etc.

(8) Recognition of Plaintiff as to 27 evidences, Strong 'Mirrors', to Nullify Unwelcome:

01/26/2015 defendant has submitted 27 evidences for defendant's pretrial disclosures for 92058656 after the filing of petition for cancellation of plaintiff of 92060328 11/05/2014.

Due to noticing the 27 strong 'Mirrors' appearance, it might be that plaintiff of 92060328 has been now so astounded to be confused/despaired, I feel hypothetically.

(9) Plaintiff Noticing Strong 'Mirrors', Abusing Law Again and Camouflaging/Disguising etc:

Noticing the 27 evidences, 'Mirrors', to show true facts, it might be plaintiff has started to camouflage/flee/run/disguise away from the strong 27 evidences.

The Motion to Strike and Motion for Default Judgment etc of plaintiff might be for the disguising etc for plaintiff to conceal etc the confusion of plaintiff, and they might be Obstruction of Prosecution Proceeding to this case/lawsuit proceeding, hypothetically I feel.

And due to the Motion to Strike and Motion for Default Judgment of plaintiff, this prosecution has been delaying now I feel.

(10)Plaintiff's 'Abandonment' of 92060328 Escaping from Strong 'Mirrors':

It might be that plaintiff actually throwing/abandoning away now at the bottom of the heart ①Petition for Cancellation ②Motion to Strike, ③Motion for Default Judgment etc, because in front of the 'Mirrors' to show true facts, the 27 evidences, plaintiff has been now powerless, and has been in situation that what plaintiff is able to solve the confusion is to be 'abandoning' only or so this case, 92060328, I feel hypothetically.

(11) Due date for defendant who are in outside USA such as in Japan:

According to the highly respectful advice of Trademark Information Specialists, Representatives of USPTO, it is the date a post office in Japan has received a letter/document of/from sender/defendant, not the date TTAB has received.

Regarding the above advice, I have been advised by the highly respectful Representatives, Trademark Information Specialists, of USPTO through the Contact Number 571-272-8500. Being deeply thankful, I have received the highly important advice.

Regarding the order to prepare my AMENDED ANSWER, on June 12, 2015, the highly respectful Interlocutory Attorney, Mr. Benjamin U. Okeke, has been mailed.

So, from the next day of June 12, within 30 days, on or before July 12, 2015, I had to mail/present/hand my AMENDED ANSWER to a post office in Japan.

So I have mailed/presented/handed my AMENDED ANSWER to a post office in Yokohama in Japan. July 11, 2015 as certifying by the Certificate of Service.

NB:

1. The heavy OBSTRUCTION OF BUSINESS to an infant company/firm:

Defendant is still an infant company/firm which has been such as due to this case I have to re-start to produce products to sell etc by me alone, being different from well prepared/established firm/company, with no staff/personnel, without enough capital money etc.

So, this case, 92060328, raised by plaintiff, is the so heavy Obstruction of Business to me/defendant including to privacy, and for instance I have been forced to be OBSTRUCTED to stop to visit China to produce my products at factories in China since filing of 92058656, 02/07/2014, and 92060328, 11/05/2014, continuously.

2. Meaning of Time to Answer:

Regarding meaning of time to answer, making telephone calls to 571-272-8500 more than once, I received highly kind and respectful advice of TM Information Specialists of United States Patent and Trademark Office. The advice is that time to answer means that on or before the date I will have handed my document to a post office in Japan. So I have handed/presented my AMENDED ANSWER to a post office in Yokohama, Japan for Trademark Trial and Appeal Board of United States Patent and Trademark Office on 7/11/2015, within the 30th day from 06/13/2015.

3. USA, USPTO, TTAB:

Herein after USA will be used for United States of America, USPTO will be used for United States Patent and Trademark Office and TTAB will be used for Trademark Trial and Appeal Board.

4. Mailing:

I will send by registered air mail including to plaintiff.

5. Certificate of Mailing etc:

In this AMENDED ANSWER, I will attach one page of the Certificate of Service, which I will prepare.

6. Usage of I MY ME etc:

I will use for defendant the word, defendant, and will use the words, I MY ME or WE OUR US for defendant.

7. Evidences:

Regarding proofs, evidences etc of my assertions, I would like to omit in this response etc.

8. Regarding commencement of using ® as LOVE IS FOREVER®:

Regarding commencement of using ® as LOVE IS FOREVER® as in the above etc, I had started to use it according to the so highly kind advice of an attorney of USA.

His advice was given to me at a place in a sightseeing place of the vicinity of Yokohama, Japan and it was of on a day of a weekend or on a holiday of 2010 or so.

After applying for the mark to Japan Patent Office July 1, 2008, for class 14, it was registered May 15, 2009. Being registered by WIPO, World Intellectual Property Organization, May 13, 2009, on the same day application to USPTO was done and registered June 29, 2010. And the highly kind advice of the attorney was given to me at the sightseeing place 2010 or so.

I had started intercept survey by myself regarding LOVE IS FOREVER® etc from 2008, and from 2009 at the sightseeing place almost every Saturday and Sunday, and holiday if possible. My survey being of a short time one of 1 minute or so with 1 or a few questions without asking individual information as personal name etc of answerer. Answerers are welcome for the short time one but unwelcome for the long one. So, I have to do almost every weekend or so in order to ask various kinds of questions. 50 to more than 100 answerers or so a day. At the early stage as 2009, 2010 around the number a day was small, but through experience becoming skilled, it has become many as 50 to 100 answerers a day etc, and in the summer season the number will be bigger than in cold winter season.

But I have been **OBSTRUCTed** to do the survey including the start of production of my products, preparation of Internet shop etc from the end of February of 2014 due to the petition to cancel case, 92058656, and in addition by this case 92060328.

A result of the survey from December 2009 to 2010 spring showed no ® mark, **LOVE IS FOREVER**, was more acceptable than with ® mark, **LOVE IS FOREVER®**. With ® mark 275(female 154 male 121) 44.6%, no ® mark 342(female 188 male 154) 55.4%.

So my mind had been made up for using no ® mark, **LOVE IS FOREVER**.

On or around one of the days at the place, I met the attorney.

Receiving OK of him for my survey, starting conversation, he advised me to attach ® mark **firmly with friend like attitude** confirming my eyes if they showing positive understanding or not.

Noticing my eyes were not positive to attach ® mark, he said he was an attorney and he seemed to want to say, "My words are of truth and reliable because I am an attorney."

His attitude and words gave me the strong impact to my mind that had been tended for no ® mark.

Nodding of a Japanese lady made the impact firm. The nodding was of a modest lady of business lady atmosphere, and I recognized she had escorted him to the place for his job, not for sightseeing.

I have felt she looked like an employee of the Japanese branch or so of a well-established famous etc company of USA, of which USA headquarters asked him to visit Japan to investigate regarding LOVE IS FOREVER® or so.

His and her high attitude, way of talking, and atmosphere had made me feel in this way. They were friendly, calm and composed.

According to his so highly kind advice, having started to study regarding ® mark, I decide to attach ® mark as **LOVE IS FOREVER®**.

Regarding their names etc I do not know due to my survey being of 1 minute or so with 1 or a few questions not asking individual information as personal name etc of answerer.

The highly thankful matter regarding the attorney and the lady is to remain in and beyond my memory.

9. Regarding Certificate of Mailing and Certificate of Service:

In my ANSWER of 92058656 dated and mailed from Japan March 23, 2014 for TTAB, I have used the word, **Mailing**, as Certificate of Mailing.

I would like to keep it as it is due to the word was given by a highly kind lady of TTAB when I made a telephone call for advice for preparing my ANSWER.

Regarding the word, **Service**, as Certificate of Service I have been using since May 03, 2014 according to the words of another highly kind lady of TTAB, and I would like to keep it as it is.

10. Regarding single quotation, ‘ _____ ’:

It will be used to mention the word(s) inside the mark is/are slightly different from usual meaning.

I. Aspects of This Case:

1. Respect for fame and dignity of people:

I think hypothetically that there seems no sign/tint in the assigned attorney and plaintiff having considered the importance of the fame and dignity of people. If this sort of consideration was done in this case, this case has not happened, I think.

That is, regarding this case, it seems that the people of plaintiff have no consideration for importance of Common Sense and Public Order and Morals, First Come First Served Rule etc and seem to abuse the trademark law, I feel hypothetically.

I do not know which side is the seller and/or buyer in this petition to cancel case and I do not know what kind of business discussions have been done or going on between the assigned attorney and plaintiff.

I think the attorney has a big possibility to become the seller hypothetically. Finding/confirming my trademark on homepage of USPTO etc, he proposing to plaintiff saying “Hello, Sir, how do you feel about this brand, LOVE IS FOREVER®, interesting?” “Oh wonderful. Who has it?” “*If you want, I can prepare to sell it for you. But it is not cheap.*” “How much?” “US\$ 〇△〇□〇〇〇.- by cash.” “All right, I will buy it.” “*Then I will arrange it next year or so. OK?*” “!?!? It is a quite a long time to wait. Why it takes such long time?” “Because ... my and/or your petition to cancel the registration of the mark may, upon payment of the prescribed fee, be filed ... I and you have been damaged and will continue to be damaged if/because the continued existence of such improper Registration stands as a bar to ... and casts a cloud upon our right to enjoy the free and exclusive use thereof in connection with the sale of its goods....” “I have understood. I will wait for a good news from you....”

This conversation/transaction is a hypothetical one of course. But no one can deny the possibility of the happening of this kind of business transaction, hypothetically, I think.

Selling and buying goods of other/stranger/3rd party without reporting/having the consent of other/stranger/3rd party is no good, which even an infant knows I think. But it might be that the persons related to this case forgetting etc the unwritten law, Common Sense, Public Order and Morals, First Come First Served Rule etc, they have been abusing etc of the law, §14(15U.S.C. §1064), I feel hypothetically.

If 100 or more this kind of things happened to a person or an organization, people might say it is a 'disaster', I feel. To do one crime is a crime, I feel. A selling and buying goods of other/stranger/3rd party without reporting/having the consent of other/stranger/3rd party is no good. 100 sellings and buyings of goods of others/strangers/3rd parties without reporting/having the consents of others/strangers/3rd parties are no good.

2. Defendant being in Wretched Situation, A Good Chance for Plaintiff?:

Defendant/I have been in the wretched situation as attacked by the plaintiff of another case, 92058656. Altogether defendant/I will be or have been attacked by 2 cases, which will be a good chance to the plaintiff of 92060328?

This is the one of the current aspects of this case.

3. Fascination of LOVE IS FOREVER® :

LOVE IS FOREVER® has fascination but sometimes makes people out of control.

So, sometimes it makes people lose power of proper/sane judgment in mind and be mad and/or insane.

And this case might be a case invited by the power of the fascination to make people mad and/or insane, hypothetically I feel.

For people who run accessory items business such as engage rings, earrings, bracelets, necklaces, or the like etc, it seems that this brand **LOVE IS FOREVER®** is fascinating, I feel. And in rare cases some people who run such business, might lose the power to control to be mad and insane in front of the brand, hypothetically I feel.

4. This case is one of the 2 petition to cancel cases:

This case, 92060328, is one of the 2 petition to cancel cases. Another is 92058656.

The brief histories are as follows.

11/23&24/2008 I did a marketing research on street regarding image of LOVE IS FOREVER®.

05/13/2009 LOVE IS FOREVER® was applied by defendant/registrant.

06/29/2010 LOVE IS FOREVER® was registered.
So registrant/I having been continued to prepare business step by step although encountering Obstruction of Business etc.

January 2011 I have finished to prepare the draft of the print design for the package for my products.

2012 Many legal offices to use LOVE IS FOREVER® appeared as follows on Internet in order to draw eyes of customers-to-be for their business without OK of Registrant.
Inputting Souk Manufacturing Inc., my company name, on Google,

(1) May 01, 2012 405,000 lists appeared,
(2) June 27, 2012 1, 540,000 lists appeared,
(3) October 18, 2012 2, 710,000 lists appeared.

06/03/2013 Plaintiff of **92058656** applied WHEN LOVE IS FOREVER aiming at refusal of WHEN LOVE IS FOREVER due to similarity, hypothetically I have been feeling. It seems in order to receive chance to obtain LOVE IS FOREVER®. After refusal of WHEN LOVE IS FOREVER the plaintiff file petition to cancel LOVE IS FOREVER®.

09/18/2013 **92058656** plaintiff's WHEN LOVE IS FOREVER was refused. And being refused, not trying to overcome the refusal, the plaintiff filed petition to cancel LOVE IS FOREVER®.

12/21/2013 Airticket to China booked/reserved to produce products of **LOVE IS FOREVER®** in China by defendant
Business preparation continued.

02/07/2014 Petition to Cancel was applied by plaintiff of **92058656**.
OBSTRUCTION OF BUSINESS?

03/14/2014 Airticket to China was cancelled due to the above Petition to Cancel.
OBSTRUCTION OF BUSINESS. The ticket was for leaving Tokyo March 16 coming back to Japan March 29, 2014.

05/19/2014 LOVE IS FOREVER was applied by plaintiff of 92060328 aiming at to receive a chance to register after cancellation of

LOVE IS FOREVER®? **OBSTRUCTION OF BUSINESS?**

08/27/2014 But LOVE IS FOREVER was refused in 3 months or so after the application.

11/05/2014 Petition to Cancel LOVE IS FOREVER® was applied by plaintiff of **92060328. OBSTRUCTION OF BUSINESS?**

12/05/2014 According to the high spirit of so many highly respectful persons of TTAB, defendant requesting the due date extension, it was granted from 12/16/2014, the original due date, to **02/14/2015**.

01/26/2015 **27 Evidences, Defendant's Pretrial Disclosures, for 92058656 were mailed to TTAB** including the assigned attorney of **92058656**.

02/14/2015 Time to answer of defendant after motion for an Extension of Answer. So, I had to present my ANSWER on or before 02/14/2015 to a post office in Japan.

02/13/2015 I presented my ANSWER to the post office in Yokohama, Japan for TTAB. Never stop **business preparation**.

03/05 or 06/2015 Motion to Strike by plaintiff of **92060328** mailed on **03/05 or 06/2015**.
I have confirmed the arrival of the mail in my mail box 03/14(Saturday)/2015.
If the actual mailing date that the post office received is 03/05/2015, I am happy to accord with the date/fact.

06/12/2015 Order to amend the ANSWER for this case was mailed by TTAB.

07/12/2015 Due date to present the **AMENDED ANSWER**.
07/11/2015 the AMENDED ANSWER was presented to the post office in Yokohama, Japan.

07/31/2015 Motion for Default Judgment of plaintiff was filed.

5. Abuse of Law?:

1) Disregard of ownership of other people?:

If in this petition to cancel of plaintiff, false petitions are included, this case will be a case to take away the right of ownership of the trademark by means of false petitions.

If so, this case might become a case related to a criminal law concerned or so, hypothetically, I feel. **If so, I would like to recommend for plaintiff to withdraw from this case.**

And this case should be judged in accordance with standpoints of such as Common Sense, Public Order and Morals, First Come First Served Rule

etc too, I do feel so.

- 2) In order to take away the ownership from the real owner, 2 kinds of methods were prepared respectively, hypothetically I feel. The one is method of 92058656 and the other is of 92060328.

The method of 92058656 is to file/apply similar trademark, WHEN LOVE IS FOREVER, to LOVE IS FOREVER® and the method of 92060328 is to file/apply the same trademark to LOVE IS FOREVER®, and both of them being refused.

And now both owners of the marks filed/applied the petition to cancel LOVE IS FOREVER®.

3) Normal response in application in finding similar trademark registered:

Normally at the stage of finding similar ones, the applicant will do as,

- (1) withdrawing from the initial choice, similar ones,
- (2) creating and/or finding out new choices not similar to the registered ones,
- (3) then applying them for registration, I think. This is normal method, and this is my method, too.
- (4) but the plaintiff, of 92060328, applying the same trademark, LOVE IS FOREVER, and being refused,
- (5) then the plaintiff applied for the petition to cancel, 92060328, aiming at the mark, LOVE IS FOREVER®, if my understanding being correct.

4) Common Sense, Public Order and Morals, First Come First Served Rule etc:

I think, it is a very important article/law that §14(15 U.S.C. §1064), Cancellation.

But they, Common Sense, Public Order and Morals, First Come First Served Rule etc, are equivalently or more important for us not to disregard, I think.

First Come Served Rule must not be forgotten, but forgetting it, the plaintiff has been trying to abuse the cancellation system in order to be ahead etc of the first come, that is, trying to make my possession plaintiff possession, I think hypothetically.

Common Sense, Public Order and Morals, First Come First Served Rule etc should not be disregarded, I feel. If they are disregarded, which will/might damage Common Sense, Public

Order and Morals, First Come First Served Rule etc, which might cause quarrels everywhere as in a train etc to fight to get a seat to sit etc etc.

II. Attitude of Defendant for Business, History of LOVE IS FOREVER etc:

1. Marketing research:

The use of the trademarks including LOVE IS FOREVER®[®], as business procedure, has been processed respecting for instance from 1) to 5) as I reported as follows.

I respect marketing research in commerce and business. It is a built in procedure in commerce and business, I think. I do not respect to start production and selling without marketing research in advance.

- 1) marketing research for creating ideal image of the trademark etc,
- 2) marketing research for creating ideal products themselves etc,
- 3) marketing research for creating ideal packages etc,
- 4) marketing research for creating ideal advertisement etc,
- 5) marketing research for creating ideal company image etc.

2. Application of LOVE IS FOREVER®:

Respecting First Come First Served Rule, I applied as follows.

Date of filing(application) to Japan Patent Office:	July 01 2008
Date of registration by WIPO:	May 13 2009
Date of registration by Japan Patent Office:	May 15 2009
Date of filing to USPTO:	May 13 2009
Date of registration by USPTO:	June 29 2010

3. History of Love is Forever® etc:

1) 1986:

I had used for the first time LOVE IS FOREVER at my friend, Mr. T, wedding announcement party.

I wrote LOVE IS FOREVER on a Japanese traditional decorative paper which is for writing happy encouraging words, cartoons etc at a farewell party, wedding party, etc. Often many people getting together will write

various messages etc on the paper and give it to a couple to marry or person to leave a company, or move to a new section etc.

The words, LOVE IS FOREVER, came to my mind spontaneously at the party.

February 14, 2014, knowing about the filing of 92058656, as to the writing on the traditional decorative paper, I made a telephone call to Mr. T. His wife taking up my call and she said he died 7 years ago and said she remembers the decorative paper but it was lost away together with his/her house by the big earthquake happened 1995 in Kobe and the vicinity. 6, 434 people died 3 people missing, 43,792 people injured by the earthquake according to Wikipedia of March 18, 2014 on Internet.

2) February 05, 2008:

I/entrepreneur/defendant applied to register current company, Souki Manufacturing Inc. and it was registered on the same day and started as a company operated by defendant only with no other staff, with no beautiful office.

3) The trademark, LOVE IS FOREVER®, application and registration etc are as follows and as in the above.

Date of filing(application) to Japan Patent Office:	July 01 2008
Date of registration by WIPO:	May 13 2009
Date of registration by Japan Patent Office:	May 15 2009
Date of filing to USPTO:	May 13 2009
Date of registration by USPTO:	June 29 2010

4) November 23 and 24, 2008:

I did a marketing research on street regarding image of LOVE IS FOREVER®.

5) I had registered the following domain names as candidates for my Internet shop.

love-is-forever.com

January 18, 2010

Soukimfg.com

December 28, 2010

love-is-forever.jp

January 19, 2010

love-is-forever.com etc, we can confirm the registrations by WHOIS.

6) January 2011:

January 2011, I have finished to prepare the draft of the print design for the package for my products.

After creating some ideas for print designs, having the draft in my hands, I having visited in the evening the busiest place of Shinjuku of Tokyo, I did a pilot intercept survey there.

At the survey receiving highly kind advice of the ladies, having a small confidence as to my ideas, I have prepared the print design sample/testee for the real survey to do at the same place mentioned in the above paragraph 8 in NB.

But for certainty, in front of the real intercept survey, I had done a pre-survey in Yokohama.

In the pre-survey, the first answerer, a lady, seeing my design sample, abruptly said, "I would like to buy it...." "???!!"

Being astounded, highly politely thankfully I mentioned, "I couldn't...."

She showed the intention to buy the sample for intercept survey.

And I changed to stop my schedule to do the real intercept survey.

The words of her then decided the print design. Since then regarding print design or package for my products, I have done nothing until now.

And the design has been quietly waiting for debut for 4 years and some now in a narrow bookshelf like place of my tiny living house like office.

7) 2012:

I had noticed on Internet the unwelcome homepages using my trademark, LOVE IS FOREVER® etc, without OK of me.

The homepages were of legal offices' ones mainly, that need to visit often the data base of USPTO, where I think they noticed LOVE IS FOREVER®. **OBSTRUCTION OF BUSINESS to defendant has started from this time**

around.

Inputting Souki Manufacturing Inc., my company name, on Google,

- (1) May 01, 2012 405,000 lists appeared,
- (2) June 27, 2012 1, 540,000 lists appeared,
- (3) October 18, 2012 2, 710,000 lists appeared.

I had contacted some companies etc and asked them to refrain from featuring my company name and trademarks. They OKed to refrain showing ladies and gentlemen manner.

Then the unwelcome homepages started to decrease, which had given me a big respect regarding USA.

Among the above (1)(2) and (3), I saw a homepage with face photo of the attorney of 92058656, Madam Catherine M.C. Farrelly, but I did not know it was hers then. And I had forgotten about her face photo.

8) February 13, 2014:

The highly kind e-mail of the attorney in Michigan has arrived, which I noticed February 14. It informed about the cancellation trial, 92058656, precisely.

9) 2012 around:

Madam Catherine M.C. Farrelly of 92058656, she must have noticed about LOVE IS FOREVER® according to situation.

The attorney of 92060328 might have started to notice about my LOVE IS FOREVER® at USPTO data base, I feel/think.

10) December 05, 2012:

IRS for the first time started to give me an e-mail regarding taxation matter, 2013 they giving, January 16, 2014 they gave me an e-mail.

But I having had no income in USA yet, I have not responded until now.

11) June 03, 2013:

If it is correct, on the above date, the trademark of the plaintiff of 92058656 case,

WHEN LOVE IS FOREVER, was applied.

12) June 2013:

I had posted my home page for the first time on Internet for safety of good people against the unwelcome home pages of the above (1)(2)(3).

There I mentioned, "Regarding the use of ...LOVE IS FOREVER®, Souki Manufacturing Inc. has OKed no organization etc ... Souki Manufacturing Inc. has no related/affiliated organizations ...if in case organizations or individual persons etc suffered damages and/or losses etc ...regarding which seems to be good to consult with authorities concerned."

The domain name for the above homepage is www.soukimfg.com.

13) My time being forced to use for coping with the above unwelcome homepages, due to this struggling, my jobs including preparation of Internet shop etc are **delayed and delayed**.

14) September 18, 2013:

If it is correct, on the above date, the application of the plaintiff of 92058656 trademark, WHEN LOVE IS FOREVER, was refused by USPTO due to the similarity to LOVE IS FOREVER®.

15) December 2013:

I had almost finished preparation of Internet shop homepage.

16) December 21, 2013:

I had booked/reserved airticket to Shanghai leaving Tokyo March 16, 2014 staying in China until March 29, 2014.

This visit was for my business to produce etc my products.

I have visited so many times to China to prepare/confirm suppliers to ask my products to prepare.

17) February 07, 2014:

If it is correct, on the above date, the plaintiff, of 92058656, applied the cancellation petition.

The commencement of the one of the **2 OBSTRUCTIONS OF BUSINESS** to me/defendant, 92058656 and 92060328.

The plaintiff selected no creative invention of another or new trademarks method **without responding the refusal of the WHEN LOVE IS FOREVER**, according to the information I have now.

I can use my small creativity for a new trademark etc, I feel.

18) February 11, 2014:

Notice of application for cancellation trial issued.

But I did not know about the petition to cancel case then.

19) February 13, 2014:

The very kind e-mail was arrived from the legal office in Michigan informing regarding this cancellation trial, 92058656, which I noticed February 14, 2014.

20) February 14, 2014:

Looking at the face photo of Madam Catherine M.C. Farrelly of her office homepage, I have noticed she is the same person who was on a homepage among the many unwelcome homepages appeared 2012 on Internet.

I printed her office homepage February 28, 2014.

21) March 01, 2014:

I made a phone call to Madam Catherine M.C. Farrelly, the assigned attorney for the plaintiff of 92058656 and recommended her to withdraw from this cancellation case.

But she did not show intention to withdraw then.

22) March 06/12, 2014:

Postponement to visit China for production etc.

OBSTRUCTION OF BUSINESS in the wretched situation by the 92058656 case.

I sent an e-mail March 06 and March 12 to my friend in Shanghai regarding possibility of postponing of my visit to China from March 16.

23) March 14, 2014:

I had cancelled the airticket leaving Tokyo March 16 coming back to Japan March 29, 2014.

24) March 20, 2014:

Example of the transaction regarding 92058656.

Because feeling uncertainty regarding Madam Catherine M.C. Farrelly, thinking it might be good to send a copy of my ANSWER then preparing directly to plaintiff, I made a telephone call to Samuel Aaron's phone number, 718-392-5454, I saw on the homepage, [www. the-aaron-group.com/](http://www.the-aaron-group.com/), etc, early morning March 20 Japan time.

A lady taking up the phone, and giving me a fax number different from the one, 7813-786-2748, I can see on the homepage, and said she could handle the document from me accordingly.

But she did not give the name of the president of the company etc according to my request.

Feeling uncertainty, I confirmed the homepage of Samuel Aaron, Inc. But there I could not find the name of the president, etc which I saw on the same homepage or the like page or so a few days ago. And it had disappeared that another homepage featuring scenes of timbering, loading, carrying, cargo vessel, the name of Samuel Aaron, etc, according to my memory, although the memory was not precise.

The above gave me feeling of uncertainty about Samuel Aaron, Inc.

25) May 19, 2014:

May 19, 2014 LOVE IS FOREVER was applied by plaintiff. The commencement of the **2nd OBSTRUCTION OF BUSINESS, 92060328**, to me, I feel. **To me, an amateur as to legal matter, it is to be the commencement of 'THE 2ND DISASTER.'**

The attorney of trademark pro, Mr. Milord A. Keshishian, has filed

the LOVE IS FOREVER which is same to the **LOVE IS FOREVER®** of defendant.

26) August 27, 2014:

The LOVE IS FOREVER applied by the plaintiff of **92060328** was refused in 3 months or so, after the application, which might have been too early for the plaintiff expectation.

The plaintiff might have expected my LOVE IS FOREVER® cancellation before August 27, 2014 due to the petition to cancel my LOVE IS FOREVER® has been filed since February 07, 2014 by another plaintiff of 92058656. If my LOVE IS FOREVER® was cancelled before August 26 or so, LOVE IS FOREVER of plaintiff of 92060328 might have been registered, I think, if my supposition is in accordance with the law etc concerned.

27) November 05, 2014:

The petition of cancellation of the plaintiff, **92060328**, was applied.
December 16, 2014 was the due date to answer regarding **92060328**.

28) December 04, 2014:

Regarding this case, **92060328**, according to so many highly kind advice of highly efficient persons of TTAB including the lady's highly kind advice, I having contacted by telephone with the attorney, Mr. MILORD A. KESHISHIAN, of/for plaintiff, I asked his consent for my request to extend the time to answer.

It might be that it was the request of me who know the facts, it might have been difficult for him to say NO or so. He was very kindly OKed for my request.

I explained to him as to misfortune of one of my family, I have to take care etc, and being busy, too, which might have made him difficult to say NO, too, I feel now.

29) December 05, 2014:

Regarding this case, **92060328**, I filed consent motion to extend and it was highly kindly respectfully granted.

30) January 26, 2015:

27 Evidences, Defendant's Pretrial Disclosures, for 92058656 were mailed to TTAB including the assigned attorney of plaintiff.

31) February 14, 2015:

The above date is the extended due date of my answer for **92060328**, which was given by/through the high spirit of so many highly respectful people of TTAB etc, I feel.

February 13, 2015, I have presented my ANSWER to/at the post office in Yokohama, Japan.

32) March 05, 2015:

The **Motion to Strike** by plaintiff of 92060328 was submitted/filed on March 05, 2015.

There being 2 kinds of stamped dates on the envelope with the **Motion to Strike** from the assigned attorney. The one is Mar 05 2015 for date to show payment of \$002.130, another is of 06 MAR '15 or so. Seeing the stamp of **06 MAR '15** only, I have typewritten/mentioned on page 9/31(10/34) in my AMENDED ANSWER dated July 10, 2015 Ref No.:Souki 150701, "Motion to Strike by plaintiff of 92060328 was mailed on **03/06/2015** although mentioning that mailed on **03/05/2015** in/on the Certificate of Service. **03/06/2015** is the date of the post office stamp on the envelope. And I have confirmed the arrival of the mail in my mail box 03/14(Saturday)/2015.", of which fact I would like to report to confirm.

If the actual mailing date, the post office receiving date is 03/05/2015, I am happy to amend it from 03/06/2015 to 03/05/2015.

33) June 12, 2015:

The **Order to amend the ANSWER** for this case, **92060328**, was mailed by **TTAB**.

34) July 12, 2015:

The above date is the due date to mail, to present to a post office in Japan in case of mailing, the **AMENDED ANSWER** for TTAB, I think.

I have presented/mailed to the branch of Japan Post in Yokohama, Japan the **AMENDED ANSWER** for TTAB on July 11, 2015.

35) July 31, 2015:

Plaintiff, the assigned attorney, Mr. Milord A. Keshishian, mailed the Motion for Default Judgment etc.

4. Preparation of Business: Purchasing Softwares, Camera to Prepare Internet Shop:

Being encountering the OBSTRUCTIONS in the wretched situation, defendant has been

continuing to prepare its business step by step.

1) January 11, 2009:

I purchased ADOBE Illustrator CS4 for making top page etc of my Internet shop and have started to learn how to use it by myself.

2) December 17, 2010:

I purchased Homepage Builder 15, an easy to build homepage kit.

3) January 17, 2013:

I purchased "da Vinci Cart," an easy to set shopping cart kit for the Internet shop.

4) February 22, 2014:

According to schedule I purchased a camera, OLYMPUS, for taking photos for the top page etc. February 22, I have changed OLYMPUS to Canon's at the store I purchased OLYMPUS having the kindness of the store.

In the ANSWER dated/mailed/presented for TTAB March 23, 2014 for 92058656 and in the Complete Version of Amended ANSWER dated/mailed/presented for TTAB December 30, 2014 for 92058656, the date changed OLYMPUS to Canon's being written February 20, 2014, in this AMENDED ANSWER I will make/amend it to February 22, 2014 as in the above according to the date of receipt for Canon's.

III Grounds for Defendant to Deny Motion for Default Judgment, Motion to Strike of Plaintiff and Petitionary Motion of Defendant for Plaintiff to respect Schedule set by Highly Respectful TTAB:

As I have reported/explained in the Issues/Merits (1) to (11) of this case on page 3 to 5 of this document, the assertions/pleadings of plaintiff are completely groundless. On the groundlessness it is impossible for plaintiff to stand on and/or to put something such as assertions/pleadings.

And doing Motion to Strike, Motion for Default Judgment etc are Obstruction of this Prosecution Proceeding. It is obvious now plaintiff is powerless in front of the 27 evidences, 'Mirrors', that I have presented 01/26/2015 for 92058656 case, which noticing, plaintiff has started Obstruction of this

Prosecution

Proceeding by filing/putting them on the 'road'/'railway'/schedule of this prosecution, hypothetically, I think.

So, in the bottom of the heart of the assigned attorney, I can 'see' the words of plaintiff, Abandonment of this Case, hypothetically, I think.

Due to the 'Mirrors' and due to the groundlessness/powerlessness of plaintiff, it seems plaintiff has been on the 'road'/'railway'/schedule to the abandoning this case, hypothetically, I feel.

So, defendant will fully **DENY** the Motion for Default Judgment and Motion to Strike of plaintiff as follows.

And for prosperity, honor, fame if the assigned attorney could kindly/respectfully withdraw from this Motion for Default Judgment of Plaintiff, Motion to Strike, Petition to Cancel and OBSTRUCTIONS OF MY BUSINESS etc, it is highly respectful/thankful.

And this case, 92060328, being reported/petitioned as in the above etc, it should be better to return this Motion for Default Judgment etc to plaintiff, but for certainty, I would like to confirm to **DENY** etc as follows regarding each allegation alleged by plaintiff.

And for efficiency/preciseness in understanding/communication, I would like to divide the Motion of plaintiff into 13 paragraphs/portions, and regarding each paragraph/portion I would like to report/respond/petition etc as follows.

The following sentence under the title of **PETITIONER'S MOTION TO STRIKE RESPONDENT'S ANSWER AND AMENDED ANSWER** is the total copy of the sentence of Motion for Default Judgment of plaintiff having filed on 07/31/2015 and featured now on the Trademark Trial and Appeal Board Electronic Filing System, ESTTA Tracking number: ESTTA687104.

**PETITIONER'S MOTION TO STRIKE RESPONDENT'S ANSWER
AND AMENDED ANSWER**

Commissioner for Trademarks
BOX TTAB

P.O. Box 1451
Arlington, VA 22313-1451

Pursuant to Fed. R. Civ. P. 12(f) and Section 506.01 of the TBMP, L.A. GEM & JEWELRY DESIGN, INC. ("LA Gem" or "Petitioner") hereby moves the Trademark Trial and Appeal Board (the "Board") for an order striking the purported answers filed by SOUKI MANUFACTURING, INC. ("SOUKI" or "Respondent"), on the ground that the purported answers consist entirely of immaterial matter that fail to conform to the requirements of Rule 8(b) of the Federal Rules of Civil Procedure. Further, pursuant to Fed. R. Civ. P. 55, and 37 C.F.R. §2.106(a), Petitioner moves for a default judgment against the Respondent, on the grounds that it failed to file a conforming Answer during the time allowed therefor.

This motion is based upon the attached brief, the Petition for Cancellation filed by Petitioner on November 5, 2014 (Dkt. No. 1), Respondent's purported answer and amended answer, filed on July 15, 2015 (Dkt. No. 24) and July 21, 2015 (Dkt. No. 25), respectively, and such other argument and evidence as may be presented to the Board on this motion.

I. ARGUMENT

On November 14, Petitioner filed its Petition for Cancellation of the LOVE IS FOREVER registration for "key rings of precious metal; ornaments, namely, earrings, precious metal insignias, precious metal badges, precious metal medals, tiepins, necklaces, bracelets, pendants, jewelry brooches, medals, rings to wear on finger, medallions; cuff links; clocks and watches, namely, wristwatches, table clocks, watches for carrying in pockets, clocks for vehicles, stop watches, wall clocks, alarm clocks" in International Class 14. Petitioner's claim for relief, in 12 numbered paragraphs, is based upon Registrant's failure to use the LOVE IS FOREVER mark in commerce, or that it completely ceased use of the mark, in connection with the goods identified in the Registration for a period of at least 3 consecutive years. Further, Petitioner has been damaged and will continue to be damaged if the Registered Mark is permitted to remain on the Principal Register because the Registered Mark stands as a bar to Petitioner's ability to federally register and protect its LOVE IS FOREVER mark for its jewelry goods, *See* Petition for Cancellation, Dkt. No. 1.

On February 19, 2015 and March 3, 2015, Respondent, appearing pro se, served an Answer (Dkt. No. 9) and Amended Answer (Dkt. No. 10). Petitioner filed a Motion to Strike these documents because the Answers failed to provide notice of the claim defenses and did not state whether the claims of the complaint were admitted or denied. On June 12, 2015, the

TTAB granted the Motion and provided Respondent with guidance as to the proper format of the Answer.

On July 11, 2015 and July 21, 2015, Respondent, again appearing pro se, served an Amended Answer to Petition to Cancel and Amendments to that answer. These documents did not cure the defects in the original pleading and are “answers” in name only because they do not permit Petitioner to determine which of its allegations are admitted or denied, or what claims are at issue. For the reasons set forth below, the purported answers should be stricken and default judgment should be entered against Respondent.

A. RESPONDENT’S PURPORTED ANSWERS SHOULD BE STRICKEN

Rule 8(b) of the Federal Rules of Civil Procedure provides in pertinent part as follows:

“A party shall state in short and plain terms the party’s defenses to each claim asserted and shall admit or deny the averments upon which the adverse party relies. If a party is without knowledge or information sufficient to form a belief as to the truth of an averment, the party shall so state and this has the effect of a denial. Denials shall fairly meet the substance of the averments denied. When a pleader intends in good faith to deny only a part or a qualification of an averment, the pleader shall specify so much of it as is true and material and shall deny only the remainder.”

Fed. R. Civ. P. 8(b).

Under Rule 8(b), a respondent’s answer must be directly responsive to the Petition for Cancellation; it should not be merely contain arguments in the nature of a brief. *See Thrifty Corporation v. Bomax Enterprises*, 228 USPQ 62, 63(TTAB 1985)(requiring Applicant to refile its answer to Opposer’s notice of opposition because Applicant’s filing lacked a specific response to each averment in the notice of opposition and was “basically argumentative rather than a proper responsive pleading to the notice of opposition”). The Respondent did not meet this standard because each paragraph of the “Answer” contains bare and conclusory assertions and asserts substantial arguments regarding the merits of the case. Even where Respondent attempted to admit or deny an allegation, the responses are legally insufficient because he also inserted a recitation of events that may or may not have occurred and unfounded arguments that can not be entered in an attempt to convince the Board why the registration should not be cancelled. Respondent even addresses Petitioner’s attorney directly by stating, “Mr. Milord A. Keshishian, it is highly recommendable for you to respectfully withdraw this petition to cancel, OBSTRUCTION OF MY BUSINESS, etc.” in response to each paragraph of the

“Answer,” which is improper. These assertions still do not provide Petitioner or the Board with fair notice of whether Respondent admits or denies the allegations, nor does it plead the elements necessary to establish the affirmative defenses. As such, these alleged assertions and defenses are not properly pleaded as an answer and affirmative defenses, are not sufficiently founded on rules or case law, and should be stricken.

As set forth above, Respondent’s purported answer is ambiguous, unintelligible, uncertain, legally insufficient and/or improper. Therefore, it is appropriate for it to be stricken.

B. DEFAULT JUDGMENT SHOULD BE ENTERED

Trademark Rule 2.106(a) provides that, “If no answer is filed within the time set, the opposition may be decided as in case of default.” 37 C.F.R. §2.106(a). *See also*, Fed. R. Civ. P. 55. Under these rules, “the failure to answer is all that is necessary to support [default] judgment.” *Old Grantian Co. v. William Grant & Sons Ltd*, 150 USPQ 58, 50(CCPA 1996).

The opposition defendant that “fails to file a timely answer is in ‘default’ once the due date for the answer has passed.” *Paolo’s Assocs. Ltd. v. Bodo*, 21 USPQ2d 1899, 1901(Comm’r Pat. 1990). In such a case, the Board may issue a Notice of Default, or alternatively, the party in the position of “plaintiff” may move for entry of a default judgment. *Old Grantian*, 150 USPQ at 60.

The TTAB’s Notice scheduling the trial dates was very plain:

“Strict compliance with the trademark Rules of Practice and, where applicable, the Federal Rules of Civil Procedure, is required of all parties, whether or not they are represented by counsel.”

Dkt No. 2, p. 6.

The TTAB’s Order granting the prior motion to strike provided Respondent with Pro Se information and guidance as to the format of an appropriate answer and suggested that, “it is advisable for a person who is not acquainted with the technicalities of the procedural and substantive law involved in a cancellation proceeding to secure the services of an attorney who is familiar with such matters.” Dkt No. 23, p. 6. Further, the same order provided a fair warning to the Respondent. “Failure to file and serve an acceptable answer before the expiration of this period may result in the entry of default judgment against Respondent. Dkt No. 23, p. 5.

The events of the case thus far, constitute a pattern of inability to follow the rules of the TTAB and Federal Rules of Civil Procedure. Based on the entire experience of the case, there is no reason to assume that given additional opportunities that Respondent will fulfill its obligations as a party to the proceedings in the future, which will cause additional delays.

Applicant has failed to file a conforming answer within the time set by the board. Accordingly, a judgment of default should be entered against Respondent.

II. CONCLUSION

In light of the foregoing, Petitioner respectfully requests that the Motion to Strike be granted and that Default Judgment be entered against respondent.

Dated: July 31, 2015

Respectfully submitted,
MILORD & ASSOCIATES, PC
/Milord A. Keshishian/
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2. Report/Response/Petition of defendant regarding each paragraph of the Motion, Pleading etc of Plaintiff:

Regarding the above total copy of the sentence of Motion for Default Judgment of plaintiff, dividing it into 13 paragraphs, for each paragraph, I would like to respond as follows.

1) Paragraph 1: "Pursuant to Fed. R. Civ. P. 12(f) and Section 506.01 of the TBMP, L.A. GEM & JEWELRY DESIGN, INC. ("LA Gem" or "Petitioner") hereby moves the Trademark Trial and Appeal Board (the "Board") for an order striking the purported answers filed by SOUKI MANUFACTURING, INC. ("SOUKI" or "Respondent"), on the ground that the purported answers consist entirely of immaterial matter that fail to conform to the requirements of Rule 8(b) of the Federal Rules of Civil Procedure."

Response to Paragraph 1: As I have reported/explained in the Issues/Merits (1) to (11) of this case on page 3 to 5 of this document, plaintiff is completely groundless.

11/05/2014 plaintiff has filed this case, 92060328. And 01/26/2015 I have presented the 27

evidences, 'Mirrors', to the post office in Yokohama, Japan, for 92058656 case, for TTAB.

The 'Mirrors' have revealed the groundlessness of plaintiff of 92058656 case completely including 92060328 case, too, I feel.

On the groundlessness it is impossible for plaintiff to stand on or to put something on it such as assertions/pleadings. So, the all assertions/pleadings etc of the assigned attorney are ineffective, I feel hypothetically.

03/05/2015 plaintiff has filed Motion to Strike, and now Motion for Default Judgment etc.

In order to conceal the groundlessness/powerlessness or so, plaintiff might file or might have filed Motion to Strike, Motion for Default Judgment etc.

And filing of Motion to Strike, asking of Motion for Default Judgment etc after filing Petition to Cancel LOVE IS FOREVER® seem to be Obstruction of Prosecution Proceeding, too, I feel hypothetically.

So, defendant will fully **DENY** the above Paragraph 1 asserted.

2) Paragraph 2: "Further, pursuant to Fed. R. Civ. P. 55, and 37

C.F.R. §2.106(a), Petitioner moves for a default judgment against the Respondent, on the grounds that it failed to file a conforming Answer during the time allowed therefor."

Response to Paragraph 2: The **Response to Paragraph 1** in the above seems to be suitable for the words of Paragraph 2. So, defendant will fully **DENY** the above Paragraph 2 asserted.

And if plaintiff asserting the due date for defendant to respond or so, if you could confirm the "(11) Due date for defendant who are in outside USA such as in Japan:" mentioned on page 5 of this document, I am highly thankful.

There I have reported as follows:

(11) Due date for defendant who are in outside USA such as in Japan:

According to the highly respectful advice of Trademark Information Specialists, Representatives of USPTO, it is the date a post office in Japan has received a letter/document of/from sender/defendant, not the date TTAB has received.

Regarding the above advice, I have been advised by the highly respectful Representatives, Trademark Information Specialists, of USPTO through the Contact

Number 571-272-8500. Being deeply thankful, I have received the highly important advice.

For certainty, if plaintiff, the assigned attorney could confirm my documents concerned on the Trademark Trial and Appeal Board Inquiry System etc , I am highly happy.

The due date was 07/12/2015, and on June 12, 2015 the order of the highly respectful Interlocutory Attorney, Mr. Benjamin U. Okeke, has mailed. So, from the next day of June 12, within 30 days, on or before July 12, 2015, I had to mail/present/hand my AMENDED ANSWER to a post office in Japan.

So I have mailed/presented/handed my AMENDED ANSWER to a post office in Yokohama, Japan. July 11, 2015 as certifying by the Certificate of Service.

3) Paragraph 3: “This motion is based upon the attached brief, the Petition for Cancellation filed by Petitioner on November 5, 2014 (Dkt. No. 1), Respondent’s purported answer and amended answer, filed on July 15, 2015 (Dkt. No. 24) and July 21, 2015 (Dkt. No.25), respectively, and such other argument and evidence as may be presented to the Board on this motion.”

Response to Paragraph 3: Regarding the words of Paragraph 3 including “Respondent’s purported answer and amended answer, filed on July 15, 2015”, because defendant is without sufficient knowledge to form an understanding including as to “July 15, 2015” that plaintiff has specified/meant, and therefore defendant will **DENY** the portion of “July 15, 2015” in Paragraph 3.

And the **Response to Paragraph 1** in the above seems to be suitable for the words of Paragraph 3, too.

So, defendant will fully **DENY** the above Paragraph 3 asserted.

4) Paragraph 4: “ I . **ARGUMENT**

On November 14, Petitioner filed its Petition for Cancellation of the LOVE IS FOREVER registration for “key rings of precious metal; ornaments, namely, earrings, precious metal insignias, precious metal badges, precious metal medals, tiepins, necklaces, bracelets, pendants, jewelry brooches, medals, rings to wear on finger, medallions; cuff links; clocks and watches, namely, wristwatches, table clocks, watches for carrying in pockets, clocks for vehicles, stop watches, wall clocks, alarm clocks” in International Class 14.”

Response to Paragraph 4: Regarding the words, “On November 14” in Paragraph 4, defendant is without sufficient knowledge to form an understanding, and therefore defendant will **DENY** the portion of “On November 14”.

And the **Response to Paragraph 1** in the above seems to be suitable for the words of Paragraph 4, too.

So, defendant will fully **DENY** the above Paragraph 4 asserted.

5) Paragraph 5: “Petitioner’s claim for relief, in 12 numbered paragraphs, is based upon Registrant’s failure to use the LOVE IS FOREVER mark in commerce, or that it completely ceased use of the mark, in connection with the goods identified in the Registration for a period of at least 3 consecutive years.”

Response to Paragraph 5: The above paragraph 5 is almost same content that plaintiff has asserted in the paragraph 5 of the page 2 in PETITION TO CANCEL REGISTRATION filed 11/05/1014. And I have responded as follows in paragraph 5 of page 24/31(25/34) of my AMENDED ANSWER filed/presented 07/11/2015 to the post office in Yokohama, Japan for TTAB. For confirmation I will report my response in the following. If plaintiff could kindly reconfirm the response, it is highly thankful.

And the **Response to Paragraph 1** in the above seems to be suitable for the words of Paragraph 5, too.

So, defendant will fully **DENY** the above Paragraph 5 asserted.

My response in paragraph 5 of my AMENDED ANSWER filed 07/11/2015:

I have noted the allegations mentioned by plaintiff in the above paragraph 5.

*But the above allegations of paragraph 5 of plaintiff are not precise to the truth etc and inappropriate, therefore I would like to **deny** the above paragraph 5 alleged by the assigned attorney as follows.*

Because I have been continuing to prepare the business of the products of the trademark, LOVE IS FOREVER® from before the registration as a tortoise step by step in spite of the heavy OBSTRUCTION OF BUSINESS including PRIVACY etc by the assigned attorney.

And I have never abandoned and will never abandon the registered trademark, LOVE IS FOREVER®, by all means, and will continue to prepare/bring up the business of the trademark step by step as a tortoise for wonderful-customers-to-be although being delayed and delayed due to the heavy OBSTRUCTION OF BUSINESS including PRIVACY etc.

Mr. Milord A. Keshishian, it is highly recommendable for you to respectfully withdraw from this petition to cancel, OBSTRUCTION OF MY BUSINESS, etc.

6) Paragraph 6: “Further, Petitioner has been damaged and will continue to be damaged if the Registered Mark is permitted to remain on the Principal Register because the Registered Mark stands as a bar to Petitioner’s ability to federally register and protect its LOVE IS FOREVER mark for its jewelry goods, *See* Petition for Cancellation, Dkt. No.1.”

Response to Paragraph 6: The above paragraph 6 is same content that plaintiff has asserted in the paragraph 6 in the 2nd line from the last line of the page 2 to the 2nd line from the top line of the page 3 in PETITION TO CANCEL REGISTRATION filed 11/05/1014. And I have responded for plaintiff as follows in my AMENDED ANSWER filed 07/11/2015. If plaintiff could kindly reconfirm the following response, it is highly thankful.

And the **Response to Paragraph 1** in the above seems to be suitable for the words of Paragraph 6, too.

So, defendant will fully **DENY** the above Paragraph 6 asserted.

My response in paragraph 6 of page 24/31(25/34) to 25/31(26/34) of my AMENDED ANSWER filed 07/11/2015:

I have noted the allegations mentioned by plaintiff in the above paragraph 6.

*But I will **deny** the above paragraph 6 alleged by plaintiff as follows.*

Because regarding the allegations of the assigned attorney etc in the paragraph 6 in the above, it seems to be the consequent of blunders/mistakes etc of the assigned attorney etc.

And the above words of the assigned attorney in paragraph 6 are irrelevant to the merits/issues of this case. One of the issues/merits etc of this case is to be

OBSTRUCTION OF BUSINESS and PRIVACY etc, I think.

And mentioning irrelevant things, approaching and accessing to me and filing of this case by the assigned attorney, Mr. Milord A. Keshishian, are heavy OBSTRUCTION OF BUSINESS and PRIVACY etc.

And I have never abandoned and will never abandon the registered trademark, LOVE IS FOREVER®, by all means, and will continue to prepare/bring up the business of the trademark step by step as a tortoise for wonderful-customers-to-be although being delayed and delayed due to the heavy OBSTRUCTION OF BUSINESS including PRIVACY etc.

Mr. Milord A. Keshishian, it is highly recommendable for you to respectfully withdraw from this petition to cancel, OBSTRUCTION OF MY BUSINESS, etc.

7) Paragraph 7: “On February 19, 2015 and March 3, 2015, Respondent, appearing pro se, served an Answer (Dkt. No.9) and Amended Answer (Dkt. No. 10).”

Response to Paragraph 7: The above information in the Paragraph 7 seems to be regarding my ANSWER presented to the post office in Yokohama, Japan, for TTAB 02/13/201 and Amendments dated 03/03/2015. If so, in the AMENDED ANSWER dated 07/10/2015 and mailed 07/11/2015 for TTAB at the post office in Yokohama, Japan, I have **denied** allegations alleged by the assigned attorney.

And the **Response to Paragraph 1** in the above seems to be suitable for the words of Paragraph 7, too.

So, defendant will fully **DENY** the above Paragraph 7 asserted.

8) Paragraph 8: “Petitioner filed a Motion to Strike these documents because the Answers failed to provide notice of the claim defenses and did not state whether the claims of the complaint were admitted or denied.”

Response to Paragraph 8: Regarding the words of Paragraph 8, because defendant is without sufficient knowledge to form an understanding including as to matters plaintiff has specified/meant, and therefore defendant will **DENY** Paragraph 8.

And the **Response to Paragraph 1** in the above seems to be suitable for the words of Paragraph 8, too.

So, defendant will fully **DENY** the above Paragraph 8 asserted.

9) Paragraph 9: “On June 12, 2015, the TTAB granted the Motion and provided Respondent with guidance as to the proper format of the Answer.”

Response to Paragraph 9: I think, according to the motion to strike of plaintiff and rules etc, the Interlocutory Attorney, Mr. Benjamin U. Okeke, has highly kindly respectfully ordered and advised me to amend my ANSWER, and according to his highly kindly respectful advice, I have amended my ANSWER.

10) Paragraph 10: “On July 11, 2015 and July 21, 2015, Respondent, again appearing pro se, served an Amended Answer to Petition to Cancel and Amendments to that answer. These documents did not cure the defects in the original pleading and are “answers” in name only because they do not permit Petitioner to determine which of its allegations are admitted or denied, or what claims are at issue. For the reasons set forth below, the purported answers should be stricken and default judgment should be entered against Respondent.”

Response to Paragraph 10: Regarding the above paragraph 10, because defendant is without sufficient knowledge to form an understanding as to matters/things plaintiff has specified/meant in the paragraph 10 and therefore Defendant will **DENY** paragraph 10.

And the **Response to Paragraph 1** in the above seems to be suitable for the words of Paragraph 10, too.

So, defendant will fully **DENY** the above Paragraph 10 asserted.

11) Paragraph 11: “**A. RESPONDENT’S PURPORTED ANSWERS SHOULD BE STRICKEN**

Rule 8(b) of the Federal Rules of Civil Procedure provides in pertinent part as follows:

“A party shall state in short and plain terms the party’s defenses to each claim asserted and shall admit or deny the averments upon which the adverse party relies. If a party is without knowledge or information sufficient to form a belief as to the truth of an averment, the party shall so state and this has the effect of a denial. Denials shall fairly meet the substance of the averments denied. When a pleader intends in good faith to deny

only a part or a qualification of an averment, the pleader shall specify so much of it as is true and material and shall deny only the reminder.”

Fed. R. Civ. P. 8(b).

Under Rule 8(b), a respondent’s answer must be directly responsive to the Petition for Cancellation; it should not be merely contain arguments in the nature of a brief. *See Thrifty Corporation v. Bomax Enterprises*, 228 USPQ 62, 63(TTAB 1985)(requiring Applicant to refile its answer to Opposer’s notice of opposition because Applicant’s filing lacked a specific response to each averment in the notice of opposition and was “basically argumentative rather than a proper responsive pleading to the notice of opposition”). The Respondent did not meet this standard because each paragraph of the “Answer” contains bare and conclusory assertions and asserts substantial arguments regarding the merits of the case. Even where Respondent attempted to admit or deny an allegation, the responses are legally insufficient because he also inserted a recitation of events that may or may not have occurred and unfounded arguments that cannot be entered in an attempt to convince the Board why the registration should not be cancelled. Respondent even addresses Petitioner’s attorney directly by stating, “Mr. Milord A. Keshishian, it is highly recommendable for you to respectfully withdraw this petition to cancel, OBSTRUCTION OF MY BUSINESS, etc.” in response to each paragraph of the “Answer,” which is improper. These assertions still do not provide Petitioner or the Board with fair notice of whether Respondent admits or denies the allegations, nor does it plead the elements necessary to establish the affirmative defenses. As such, these alleged assertions and defenses are not properly pleaded as an answer and affirmative defenses, are not sufficiently founded on rules or case law, and should be stricken.

As set forth above, Respondent’s purported answer is ambiguous, unintelligible, uncertain, legally insufficient and/or improper. Therefore, it is appropriate for it to be stricken.”

Response to Paragraph 11: The above paragraph 11 is similar to the content of A of page 3 to page 4 of Motion to Strike of Plaintiff submitted 03/05/2015, for which defendant has responded in/by the responses presented on 03/19/2015 to the post office in Yokohama, Japan, for TTAB. If the assigned attorney could show high kindness to reconfirm the responses, which will be highly thankful.

And the **Response to Paragraph 1** in the above seems to be suitable for the words of Paragraph 11, too.

So, defendant will fully **DENY** the above Paragraph 11 asserted.

12) Paragraph 12: “B. DEFAULT JUDGMENT SHOULD BE ENTERED

Trademark Rule 2.106(a) provides that, “If no answer is filed within the time set, the opposition may be decided as in case of default.” 37 C.F.R. §2.106(a). *See also*, Fed. R. Civ. P. 55. Under these rules, “the failure to answer is all that is necessary to support [default] judgment.” *Old Grantian Co. v. William Grant & Sons Ltd*, 150 USPQ 58, 50(CCPA 1996).

The opposition defendant that “fails to file a timely answer is in ‘default’ once the due date for the answer has passed.” *Paolo’s Assocs. Ltd. v. Bodo*, 21 USPQ2d 1899, 1901(Comm’r Pat. 1990). In such a case, the Board may issue a Notice of Default, or alternatively, the party in the position of “plaintiff” may move for entry of a default judgment. *Old Grantian*, 150 USPQ at 60.

The TTAB’s Notice scheduling the trial dates was very plain:

“Strict compliance with the trademark Rules of Practice and, where applicable, the Federal Rules of Civil Procedure, is required of all parties, whether or not they are represented by counsel.”

Dkt No. 2, p. 6.

The TTAB’s Order granting the prior motion to strike provided Respondent with Pro Se information and guidance as to the format of an appropriate answer and suggested that, “it is advisable for a person who is not acquainted with the technicalities of the procedural and substantive law involved in a cancellation proceeding to secure the services of an attorney who is familiar with such matters.” Dkt No. 23, p. 6. Further, the same order provided a fair warning to the Respondent. “Failure to file and serve an acceptable answer before the expiration of this period may result in the entry of default judgment against Respondent. Dkt No. 23, p. 5.

The events of the case thus far, constitute a pattern of inability to follow the rules of the TTAB and Federal Rules of Civil Procedure. Based on the entire experience of the case, there is no reason to assume that given additional opportunities that Respondent will fulfill its obligations as a party to the proceedings in the future, which will cause additional delays.

Applicant has failed to a conforming answer within the time set by the board. Accordingly, a judgment of default should be entered against Respondent.”

Response to Paragraph 12: Regarding the words of the above paragraph 12, because defendant is without sufficient knowledge to form an understanding as to matters/things

plaintiff has specified/meant, and therefore Defendant will **DENY** paragraph 12.

But if the above paragraph 12 is basically regarding the due date assertion, regarding the due date, I have reported in the part of 11) of page 5 of this document etc, which if the assigned attorney could reconfirm, I am happy. But it is to be the best for the assigned attorney to receive the highly respectful advice of TTAB, firstly, I feel.

And the **Response to Paragraph 1** in the above seems to be suitable for the words of Paragraph 12 too, I feel.

So, defendant will fully **DENY** the above Paragraph 12 asserted.

13) Paragraph 13:

“II. CONCLUSION

In light of the foregoing, Petitioner respectfully requests that the Motion to Strike be granted and that Default Judgment be entered against respondent.

Dated: July 31, 2015

Respectfully submitted,
MILORD & ASSOCIATES, PC
/Milord A. Keshishian/
Milord A. Keshishian, Esq.
Attorneys for Petitioner
L.A.GEM AND JEWELRY DESIGN, INC.
2049 Century Park East, Suite 3850
Los Angeles, CA 90067
Telephone: (310)226-7878
Facsimile: (310)226-7879”

Response to Paragraph 13: Regarding the requests of Motion for Default Judgment and Motion to Strike requested by plaintiff in the above paragraph 13, according to the reports/explanations of defendant in the above, I would like to fully **DENY**.

And the **Response to Paragraph 1** in the above seems to be suitable for the words of Paragraph 13 too.

So, defendant will fully **DENY** the above Paragraph 13 asserted.

Sincere Petition for highly respectful Judgment of TTAB:

I think hypothetically that plaintiff seems to have noticed that groundlessness of plaintiff has been revealed/confirmed, and I think hypothetically that, noticing/confirming the groundlessness, plaintiff seems to have started now to obstruct prosecution proceeding by filing Motion to Strike, Motion for Default Judgment etc.

If so, regarding defendant's (1) Petitionary Motion for Highly Respectful TTAB to ignore the Motion for Default Judgment asserted 07/31/2015 by plaintiff (2) Petitionary Motion for Highly Respectful TTAB to ignore the Motion to Strike asserted 03/05/2015 by plaintiff, and (3) Petitionary Motion of defendant for Highly Respectful TTAB to give order to plaintiff to respect Schedule set/mailed June 12, 2015, that is, regarding the defendant's above Motions of (1) (2) (3) I would like to sincerely petition highly respectful Judgment of TTAB.

Very truly sincerely yours,



Defendant

Souki Manufacturing Inc.

Nobuhiko Minaki(Mr.)

Representative Director

Trademark Creator, Owner, User

326-6 Sakamoto-cho, Hodogaya-ku, Yokohama-shi

Kanagawa, 240-0043, Japan

TEL 81-45-333-4525 81-45-332-7890 direct

FAX 81-45-515-0047 E-MAIL mina-csj@nifty.com

Certificate of Service

I hereby certify that:

- 1) a true and complete copy of 38 pages of:

Petitionary Motion for Highly Respectful TTAB to Ignore
Motion for Default Judgment and Motion to Strike
Filed by Plaintiff

Petitionary Motion for Highly Respectful TTAB to give order to Plaintiff to Respect
Schedule Set by Highly Respectful TTAB

has been served on MR. MILORD A. KESHISHIAN, Assigned Attorney for plaintiff,
MILORD & ASSOCIATES, PC

- 2) by mailing on August 23, 2015 via First Class Mail, EMS (Tracking No.:EG370592793
JP), Service of Japan Post, postage prepaid to:
- 3) MR. MILORD A. KESHISHIAN
MILORD & ASSOCIATES, PC 2049 CENTURY PARK EAST, SUITE 3850
LOS ANGELES, CA 90067, USA

Date: August 23, 2015

Signature:



Nobuhiko Minaki

Defendant

Souki Manufacturing Inc.

Nobuhiko Minaki

Representative Director

Trademark Creator, Owner, User

326-6 Sakamoto-cho, Hodogaya-ku, Yokohama-shi

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